

A-88-255 (Emerson)

This letter is SUPERSEDED by the 1998 amendments to Regulation 18530. Regulation 18530 revised the Commission's interpretation of Government Code Section 85300. Prior to the amendment, the Commission interpreted Section 85300 to prohibit the use of public resources for campaign purposes. Amended Regulation 18530 provides that Section 85300 only prohibits the payment of public moneys for the public financing of elections.



California Fair Political Practices Commission

SUPERSEDED BY 1998
AMENDMENTS TO
REGULATION 18530

November 15, 1988

James C. Emerson
Deputy County Counsel
County of Santa Clara
County Government Center, East Wing
70 West Hedding Street
San Jose, CA 95110

Re: Your Request for Advice
Our File No. A-88-255

Dear Mr. Emerson:

Please excuse my delay in responding to your request for advice regarding application of the provisions of Section 85300 of the Political Reform Act (the "Act"), as amended by Proposition 73, relative to the inclusion of candidates' statements in election materials published by the county.

As you are aware, the Commission has been attempting to address the numerous concerns regarding implementation of Proposition 73 through regulations and formal opinions. At its October meeting, the Commission approved notice of proposed Regulation 18530 (copy enclosed). The proposed regulation prohibits any public agency from expending public funds for the purpose of producing and disseminating candidate statements.

I have enclosed a copy of the staff's discussion memorandum, along with a copy of the proposed regulation, for your information. We are currently soliciting comments on the proposed regulation, which will be before the Commission for adoption at its December 6th meeting. If approved as noticed, the County of Santa Clara will no longer be able to include candidate statements in their voter pamphlet without seeking reimbursement for pro-rata expenses from the candidate.

Any comments you would like to submit on behalf of the County of Santa Clara regarding the proposed regulation, should be directed to the Legal Division, FPPC, 428 J Street, Suite 800, Sacramento, CA 95814.

James C. Emerson
November 15, 1988
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If you have any questions regarding this response to your inquiry, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

Lilly Spitz (Red)

By: Lilly Spitz
Counsel, Legal Division

DMG:LS:plh

Enclosure

County of Santa Clara
California

Office of the County Counsel
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
299-2111 Area Code 408

Donald L. Clark, County Counsel

JUN 5 6 12 AM '88 June 27, 1988

Robert Leidigh, Staff Counsel
Legal Division
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, California 95814

Dear Mr. Leidigh:

It has come to our attention that, in addition to several of the other sections recently added by Proposition 73, section 85300 reads as follows: "No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office."

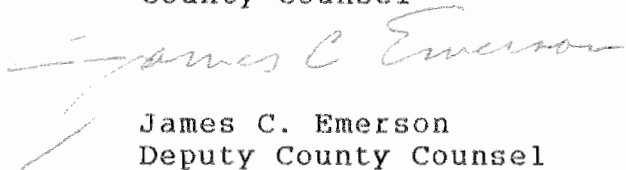
Elections Code section 10012 allows any local agency to charge a candidate for the candidate's statement which is published in the Voter's Pamphlet. Many of my clients, the school districts of Santa Clara County, elect to waive the fee and to have the district absorb the cost of the candidate's statement and the publication thereof.

We would appreciate your guidance concerning the apparent prohibition contained in section 85300, as amended by Proposition 73, relative to the payment of publication of the candidates' statements by public agencies. I should also add that in Santa Clara County, the County Charter allows for the payment of statements for officers set forth in the Charter. The Board of Supervisors has, however, elected to extend the free publication to judges running for election or re-election within the County.

I would appreciate your attention to this issue and my clients would be grateful for any guidance you may give in this area.

Very truly yours,

DONALD L. CLARK
County Counsel


James C. Emerson
Deputy County Counsel

JCE/nlw
cc: Donald L. Clark
George Mann, Registrar of Voters
4310g,id17,1





California Fair Political Practices Commission

July 14, 1988

James C. Emerson
Deputy County Counsel
County of Santa Clara
County Government Center, East Wing
70 West Hedding St.
San Jose, CA 95110

Re: Your Request for Advice
Our File No. A-88-255

Dear Mr. Emerson:

We are in receipt of your letter requesting advice regarding your responsibilities under Section 85300 of the Political Reform Act (the "Act"), as amended by Proposition 73, relative to the inclusion of candidates' statements in election materials published by the county.

As you are aware Section 85300 does not go into effect until January 1, 1989. Consequently, its prohibitions do not apply to materials published by the county in the current election year.

Because of the delayed effective date of most of the provisions of Proposition 73, and the numerous inquiries we are receiving relative to its implementation, we are attempting to respond to questions regarding interpretation of the initiative in an organized and efficient fashion. Due to the volume of requests and complexity of the issues involved we will answer your question in a timely manner, but not within the usual twenty-one working days. (Section 83114(b).)

If you have any questions, or would like to discuss your request, please contact me at (916) 322-5901.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gregory W. Baugher", is written over the typed name and title.

Gregory W. Baugher
Executive Director